

REMARKS

Claims 1 - 5 and 7 - 9 were rejected under Section 102 as anticipated by patent 6,436,119 to Erb, and claim 10 under Section 103 as obvious in light of Erb. The rejections are respectfully traversed, particularly in light of the amendments made above, and reconsideration and withdrawal are earnestly solicited.

The object of the tool of this invention is to provide a uniform or nearly uniform cylindrical tunnel in bone, especially to enable soft tissue graft repair of the ACL. To that end, the elongated portions of the segments making up the tool are constrained to move radially inwardly and outwardly while remaining substantially parallel to one another, as claimed in claim 1 as filed; claim 1 has been further amended to make this explicit.

Erb, by comparison, shows a tool comprising a longitudinally partially split tube; as a tapered member is drawn inwardly, the segments of the tube are expanded outwardly, but as their proximal ends are fixed, the segments necessarily undergo rotation about a transverse axis to some degree. This produces a tapered anatomic space in the soft tissue being expanded. While doubtless useful for the purpose intended, the Erb device would not be capable of producing a substantially cylindrical bore suitable for receiving a substantially cylindrical ligament-attaching plug or the like.

In this connection, it should be noted that "generally cylindrical" or like terminology applied to the bore formed by the tool of the invention is intended to include the sort of bore shown in Fig. 2, i.e., to recognize that as the segments are forced outwardly the walls of the bore will tend to conform to the outer surfaces of the segments, which may be of smaller radius than that desired for the

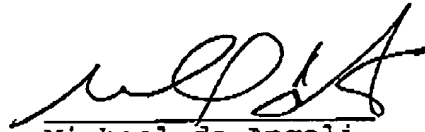
bore to be formed, and that it may be desirable to rotate the tool through on the order of 60 degrees and operate it again, to obtain a more uniform bore, as discussed in the application at p. 8, lines 14 - 26.

As noted, claim 1 has been amended to bring these aspects of the invention out more clearly, and it is respectfully submitted that claim 1 and the dependent claims are allowable. Applicant would also point out that claim 10 has been amended to recite that the garter spring is disposed around the hub portion of the segments, clearly distinguishing over the rubber band the Examiner suggests might be placed over the tip of the Erb device to prevent damage in shipping. Applicant also reserves the right to argue that the Examiner's suggestion that Erb teaches "two angled cylindrical surfaces: one zero degrees" is inherently illogical, and that Erb does not in fact teach the tapered lumen and cooperating central member recited. However, applicant urges that claim 1 and dependent claims 2 - 5 and 7 - 10 are allowable as above, such that additional arguments need not be made at this time.

A Notice of Allowance is earnestly solicited.

Respectfully submitted,

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Dated


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